

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JERRY WALKER,

Defendant.

Case No. 96-CR-04-1-JPS

**ORDER**

In 1998, the Court of Appeals ruled that Count One of Defendant's conviction was impermissibly duplicative of the other counts of conviction. (Docket #412). On October 18, 2017, in accordance with this mandate, the Court entered an order and amended judgment vacating Defendant's conviction on Count One of his sentence. (Docket #593). On October 27, 2017, Defendant moved for reconsideration of that order, arguing that the Court must conduct a full resentencing in this case, including reevaluating the sentencing factors outlined in 18 U.S.C. § 3553. (Docket #596). This is not what the Court of Appeals directed, and this Court is not at liberty to do more. *U.S. v. Gibbs*, 403 F. App'x 82, 83 (7th Cir. 2010) (a full resentencing after an appeal is improper if the Court of Appeals' mandate directed the district court to correct a discrete error).<sup>1</sup> Defendant's motion must, therefore, be denied.

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<sup>1</sup>On January 29, 2018, Defendant filed a motion seeking a ruling on his motion for reconsideration. (Docket #608). The Court had refrained from deciding the motion because it believed jurisdiction was lacking; Defendant had filed a notice of appeal eight days after the motion was docketed. *See* (Docket #597). With Defendant's latest motion, the Court learned for the first time that the Court of Appeals was waiting for a ruling on the motion for reconsideration. With the issuance of this Order, Defendant's motion for a ruling becomes moot.

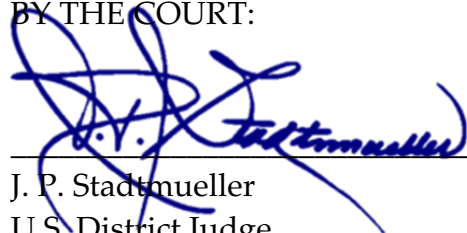
Accordingly,

**IT IS ORDERED** that Defendant's motion for reconsideration (Docket #596) be and the same is hereby **DENIED**; and

**IT IS FURTHER ORDERED** that Defendant's motion for a status update (Docket #608) be and the same is hereby **DENIED as moot**.

Dated at Milwaukee, Wisconsin, this 2nd day of February, 2018.

BY THE COURT:



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J. P. Stadtmueller  
U.S. District Judge